

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7967

BILL NUMBER: SB 643

DATE PREPARED: Jan 19, 1999

BILL AMENDED:

SUBJECT: Tax credit for brownfield program.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

STATE IMPACT	FY 1999	FY 2000	FY 2001
State Revenues			(5,000,000)
State Expenditures		10,000,000	
Net Increase (Decrease)		(10,000,000)	(5,000,000)

Summary of Legislation: This bill allows a credit against state tax liability for certain voluntary environmental remediation costs. It appropriates \$10,000,000 to the Environmental Remediation Revolving Loan Fund.

Effective Date: July 1, 1999; January 1, 2000.

Explanation of State Expenditures: This bill appropriates \$10 million from the state General Fund to the Environmental Remediation Revolving Loan Fund for the 1999-2001 biennium. P.L. 59 - 1997 (SEA 360) established this fund and provided that \$10 million be transferred into it from the Hazardous Substances Response Trust Fund between July 1, 1997 and July 1, 1999. The Revolving Loan Fund currently has an unobligated balance of approximately \$7.9 million.

This bill allows a credit against state tax liability for certain voluntary environmental remediation costs. The Department of Revenue will incur additional administrative expenses related to the updating of tax forms and the monitoring of the credit. Any costs associated with this proposal could be absorbed within the Department's current budget.

The Indiana Department of Environmental Management (IDEM) must certify costs incurred in the voluntary

remediation as qualified investments. This may result in additional administrative expenses for IDEM, although these expenses could be absorbed within its existing budget. Costs are considered qualified investments if they:

- (1) result from work performed in Indiana to conduct a voluntary remediation that involves the remediation of a brownfield;
- (2) may not be recovered by the taxpayer from any other person after the taxpayer has made a good faith effort to recover the costs; and
- (3) result in taxable income to any other Indiana taxpayer.

Explanation of State Revenues: This bill allows a taxpayer to take a tax credit equal to 25% of a qualified investment made in the voluntary remediation of a brownfield. A brownfield is defined as the following:

An industrial or commercial parcel of real estate that is abandoned or inactive, or may not be operated at its appropriate use, and on which expansion or redevelopment is complicated because of the actual or perceived presence of a hazardous substance or petroleum released into the surface or subsurface soil or groundwater that poses a risk to human health and the environment.

The credit may be taken against the taxpayer's gross income, adjusted gross income, supplemental net income, bank, savings and loan association, insurance premiums, financial institutions, and gross retail and use tax liability. Revenue from these taxes is deposited in the state General Fund and the Property Tax Replacement Fund (PTRF). Any decrease in PTRF revenue would necessitate an increase in state General Fund transfers to the PTRF in an equal amount.

The total amount of tax credits allowed may not exceed \$5,000,000 in each fiscal year, although the actual revenue impact will vary from year to year. If the amount of a credit exceeds a taxpayer's liability, the excess may be carried forward for not more than five years. A taxpayer is entitled to a carryback of any unused credit for no more than five years. If a pass through entity without state tax liability is entitled to a credit, a shareholder, partner, or a member of the entity is entitled to a credit equal to the credit determined for the pass through entity multiplied by that person's share of the entity's distributive income. A pass through entity and a shareholder, partner, or member of the entity may not claim more than one credit for the same qualified investment.

The remediation of brownfields may create new jobs. New jobs will increase income tax collections, as well as increase the amount of revenue from other state taxes, such as the sales tax and motor vehicle excise tax.

Explanation of Local Expenditures: If a county owns land that could be sold and remediated by a new owner under this bill, the county would no longer be responsible for remediation. This could result in a reduction in counties' liability for cleanup of such property.

This bill requires the legislative body of a political subdivision to approve a tax credit before it can be granted to a taxpayer. In order to approve the tax credit, the legislative body must adopt a resolution. Before adopting this resolution, the legislative body must publish a notice of the proposed resolution and the public hearing and also review a required statement of benefits submitted by the taxpayer. The costs to local units associated with these provisions are not expected to be great.

Explanation of Local Revenues: Currently, if a property is abandoned and property tax has not been paid,

the property goes to tax sale. Normally, if a parcel goes to tax sale and remains unsold, the county auditor would execute a deed to the county. However, the county auditor is not required to execute a deed to the county if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or remediation will exceed the fair market value of the property.

Under this bill, if the parcel is sold and remediated then the new owners will begin paying property tax on the property. This could result in a shift of the property tax burden from all taxpayers to the new owner of the property. If the property is developed further, the improvements made will be taxable and would increase the base of assessed value. This would create a shift in the property tax burden from other taxpayers to the new owner of the property.

State Agencies Affected: IDEM; Department of Revenue.

Local Agencies Affected: Political subdivisions containing brownfields.

Information Sources: